

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

WAYNE A. POWE, ET AL.

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Civil Action No. 4:15-CV-661

V.

§ (Judge Mazzant/Judge Nowak)

DEUTSCHE BANK NATIONAL TRUST
CO., AS TRUSTEE FOR RESIDENTIAL
ASSET SECURITIZATION TRUST
SERIES 2004-A7 MORTGAGE PASS-
THROUGH CERTIFICATES 2004-G

**MEMORANDUM ADOPTING REPORTS AND
RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the reports of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On March 16, 2018, the reports of the Magistrate Judge (Dkts. #89, #90) were entered containing proposed findings of fact and recommendations that Defendant Deutsche Bank’s Motion for Award of Attorneys’ Fees (Dkt. #81) be granted and Plaintiffs’ “Emergency Motion to Set Aside Foreclosure Sale and for Temporary Restraining Order and Preliminary Injunction and for an Expedited Hearing on or Submission of Motion” (Dkt. #83) be denied as moot.

Subsequent to the issuance of the reports, Plaintiff filed two additional Emergency Motions: “Emergency Motion for Temporary Restraining Order and Preliminary Injunction and for an Expedited Hearing on or Submission of Motion, Motion to Suspend the Enforcement of the October 24, 2017 Order and to Set Amount of Supersedeas Bond” (Dkt. #91) and “First Amended Emergency Motion for Temporary Restraining Order and Preliminary Injunction and for an Expedited Hearing on or Submission of Motion, Motion to Suspend Enforcement of the October 24, 2017 Order and to Set Amount of Supersedeas Bond” (collectively, the “Emergency Motions”) (Dkt. #94). On April 20, 2018, at Hearing before the Magistrate Judge, Plaintiffs withdrew both

Emergency Motions (Dkt. #97). As such, pending before the Court are only the aforementioned Reports and Recommendations (Dkts. #89, #90).

Having received the reports of the Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's reports as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that Plaintiffs' "Emergency Motion to Set Aside Foreclosure Sale and for Temporary Restraining Order and Preliminary Injunction and for an Expedited Hearing on or Submission of Motion" (Dkt. #83) is **DENIED AS MOOT**.

It is further **ORDERED** that Defendant Deutsche Bank's Motion for Award of Attorneys' Fees (Dkt. #81) is **GRANTED**, and Deutsche Bank shall have and recover its attorneys' fees in the amount of \$16,330.00 from Plaintiffs/Counter-Defendants Wayne A. Powe and Regina Y. Powe. This award exists solely as a further obligation owed by Plaintiffs/Counter-Defendants Wayne A. Powe and Regina Y. Powe under the Note and Security Instrument recorded as document number 2004-0098354 in the official public records of Collin County, Texas, and not as an award of money damages.

The Court previously granted Defendant's Motion for Summary Judgment (Dkt. #78), and ordered Defendant to proceed in filing any briefing on the remaining issue of Defendant's entitlement to attorney's fees. The Court's adoption of the Magistrate Judge's Report and Recommendation on Defendant's Motion for Award of Attorneys' Fees herein disposes of all remaining claims and issues in this case. A final judgment closing this civil action is therefore entered contemporaneously herewith.

IT IS SO ORDERED.

SIGNED this 24th day of April, 2018.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE